

**THIRD AMENDED AND RESTATED  
CONDOMINIUM DECLARATION  
FOR  
FORT MARCY COMPOUND CONDOMINIUM ASSOCIATION  
Effective May 14, 2011**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100

# TABLE OF CONTENTS

<b>ARTICLE 1 DEFINITIONS.....</b>	<b>1</b>
1.1 "ASSESSMENTS" .....	1
1.2 "ASSOCIATION" .....	1
1.3 "BOARD OF DIRECTORS" OR "BOARD" .....	1
1.4 "BUILDING" .....	1
1.5 "BYLAWS" .....	1
1.6 "COMMON EXPENSES" .....	1
1.7 "CONDOMINIUM UNIT" .....	2
1.8 "COUNTY" .....	2
1.9 "DIRECTOR" .....	2
1.10 "GENERAL COMMON ELEMENTS" .....	2
1.11 "LIMITED COMMON ELEMENTS" .....	3
1.12 "MORTGAGEE" .....	3
1.13 "OWNER" .....	3
1.14 "PROPERTY" .....	3
1.15 "REAL PROPERTY" .....	3
1.16 "RULES AND REGULATIONS" .....	3
1.17 "UNIT" .....	3
<b>ARTICLE 2 CONDOMINIUM UNITS.....</b>	<b>3</b>
2.1 DIVISION INTO UNITS .....	3
2.2 LIMITED COMMON ELEMENTS .....	3
2.3 INSEPARABILITY OF A CONDOMINIUM UNIT .....	4
2.4 NON-PARTITIONABILITY OF GENERAL COMMON ELEMENTS .....	4
2.5 EASEMENTS FOR ENCROACHMENTS .....	4
2.6 SEPARATE TAXATION OF CONDOMINIUM UNITS .....	4
<b>ARTICLE 3 RIGHTS, EASEMENTS AND OBLIGATIONS.....</b>	<b>5</b>
3.1 OWNER'S RIGHTS IN GENERAL COMMON ELEMENTS .....	5
3.2 OWNER'S RIGHTS IN LIMITED COMMON ELEMENTS .....	5
3.3 OWNER'S RIGHTS IN UNIT .....	5
3.4 OWNER'S MAINTENANCE RESPONSIBILITIES .....	5
3.5 ASSOCIATION RIGHTS .....	6
3.6 OWNER'S EASEMENT FOR ACCESS, SUPPORT AND UTILITIES .....	6
3.7 EASEMENTS IN UNITS FOR REPAIR, MAINTENANCE AND EMERGENCIES .....	6
3.8 PARTITION OF A CONDOMINIUM UNIT PROHIBITED .....	7
3.9 EASEMENTS DEEMED APPURTENANT .....	7
<b>ARTICLE 4 THE ASSOCIATION.....</b>	<b>7</b>
4.1 GENERAL PURPOSES AND POWERS .....	7
4.2 REGULAR MEMBERSHIP .....	7
4.3 BOARD OF DIRECTORS .....	7
4.4 VOTING OF OWNERS .....	8
4.5 ARTICLES OF INCORPORATION AND BYLAWS .....	8

<b>ARTICLE 5 RIGHTS AND OBLIGATIONS OF THE ASSOCIATION AND PROHIBITIONS</b> .....	8
5.1    ASSOCIATION AS ATTORNEY-IN-FACT FOR OWNERS.....	8
5.2    GENERAL COMMON ELEMENT MAINTENANCE.....	8
5.3    OTHER ASSOCIATION FUNCTIONS.....	8
5.4    LABOR AND SERVICES.....	8
5.5    ASSOCIATION RIGHT TO ACQUIRE PROPERTY.....	9
5.6    RULES AND REGULATIONS.....	9
5.7    SUSPENSION OF VOTING RIGHTS.....	9
5.8    IMPLIED RIGHTS.....	9
5.9    RIGHTS OF MORTGAGEE.....	9
<b>ARTICLE 6 ASSESSMENTS</b> .....	10
6.1    REGULAR ASSESSMENTS.....	10
6.2    SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS.....	10
6.3    APPORTIONMENT OF ASSESSMENTS.....	10
6.4    DETERMINATION OF BUDGETS AND ASSESSMENTS.....	10
6.5    TIME FOR PAYMENTS.....	11
6.6    LIEN FOR ASSESSMENTS AND OTHER AMOUNTS.....	11
6.7    LIABILITY OF OWNERS AND ENCUMBRANCES.....	11
6.8    ESTOPPEL CERTIFICATE.....	12
6.9    GENERAL.....	12
<b>ARTICLE 7 USE AND OTHER RESTRICTIONS</b> .....	13
7.1    RESTRICTIONS ON USE.....	13
7.2    COMMON ELEMENTS RESTRICTIONS.....	13
7.3    NO IMPERILING OF INSURANCE.....	13
7.4    NO VIOLATION OF LAW.....	13
7.5    NO NOXIOUS, OFFENSIVE, HAZARDOUS OR ANNOYING ACTIVITIES.....	13
7.6    NO UNSIGHTLINESS.....	13
7.7    RESTRICTION ON ANIMALS.....	14
7.8    RESTRICTION ON SIGNS.....	14
7.9    MAINTENANCE OF CONDOMINIUM UNIT.....	14
7.10   NO VIOLATION OF RULES.....	14
7.11   OWNER CAUSED DAMAGE.....	14
<b>ARTICLE 8 INSURANCE</b> .....	14
8.1    INSURANCE REQUIREMENTS GENERALLY.....	14
8.2    WORKMEN'S COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE.....	15
8.3    INSURANCE BY OWNERS.....	15
8.4    RECEIPT AND APPLICATION OF INSURANCE PROCEEDS.....	15
<b>ARTICLE 9 DAMAGE, DESTRUCTION AND RESTORATION</b> .....	15
9.1    ASSOCIATION ATTORNEY-IN-FACT.....	15
9.2    RESTORATION OF THE PROPERTY.....	16
<b>ARTICLE 10 MISCELLANEOUS</b> .....	16
10.1   DURATION OF DECLARATION.....	16
10.2   REVOCAION OR AMENDMENT.....	16

10.3	REGISTRATION OF MAILING ADDRESS.....	16
10.4	EFFECT OF PROVISIONS OF DECLARATION.....	16
10.5	ENFORCEMENT AND REMEDIES.....	17
10.6	PRIORITIES OF ASSOCIATION LIEN FOR COMMON EXPENSES.....	17
10.7	LIMITED LIABILITY; INDEMNIFICATION.....	18
10.8	RESERVATIONS.....	18
10.9	GENERAL.....	18
10.10	LIEN HOLDERS.....	19

58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100

THIRD AMENDED AND RESTATED  
CONDOMINIUM DECLARATION

FOR

FORT MARCY COMPOUND CONDOMINIUM ASSOCIATION

Effective \_\_\_\_\_

This Third Amended and Restated Condominium Declaration for Fort Marcy Compound Condominium Association shall amend and restate in its entirety the original Declaration executed by William F. Hartley on May 16, 1979, recorded at Book 382, Pages 954-999, records of Santa Fe County, New Mexico, the Second Amended Declaration recorded October 27, 2005, recorded as instrument number 1404935, records of Santa Fe County, New Mexico, and any other prior amendments to the Declaration. Additionally, this Third Amended and Restated Condominium Declaration is intended, among other matters, to recognize that, on May 18, 2007, the New Mexico Condominium Act ("Condominium Act"), as amended, was adopted by the Fort Marcy Compound Condominium Association.

The Fort Marcy Compound Condominium Property shall at all times be owned and held in condominium Ownership under the New Mexico Condominium Act, as amended from time to time, and that the following terms, covenants, conditions, easements, restrictions, uses, reservations, limitations and obligations shall be deemed to run with the land, shall be a burden and a benefit to any person or entity acquiring an interest in the Real Property and improvements.

ARTICLE 1

DEFINITIONS

- 1.1 "Assessments" are Common Expenses as defined in Article 6 hereof.
- 1.2 "Association" means Fort Marcy Compound Condominium Association, a New Mexico not for profit corporation, its successor and assigns.
- 1.3 "Board of Directors" or "Board" means the Board of Directors of Fort Marcy Compound Condominium Association.
- 1.4 "Building" means the buildings constructed on the Real Property.
- 1.5 "Bylaws" means the Third Amended and Restated Bylaws of Fort Marcy Compound Condominium Association.
- 1.6 "Common Expenses" includes: (1) all sums lawfully assessed against the Unit Owners by the Association; (2) expenses of administration, maintenance, repair or replacement

of the common areas and facilities; and (3) expenses declared common expenses by the Association.

1.7 "Condominium Unit" means the Unit together with the appurtenant undivided interest in and to the General Common Elements assigned to the Unit by and under this Declaration and as shown on Exhibit 3, attached hereto and incorporated herein by reference.

1.8 "County" means County of Santa Fe, New Mexico.

1.9 "Director" means an Owner who has been duly elected to the Board of Directors.

1.10 "General Common Elements" means all of the Property, except the portions thereof which are Units, and means and includes the Real Property and improvements which are or may be necessary or convenient to the support, existence, use, occupation, operation, maintenance, repair or safety of a Building or any Unit therein, including, but not limited to, the following:

(a) All foundations, columns, girders, beams and supports of a Building(s) on the Property.

(b) The exterior walls, the main or bearing walls, the main or bearing sub flooring and the roofs of the Building(s) on the Property.

(c) All common entrances, exits, halls, corridors, stairs, and stairways.

(d) All utility, service and maintenance rooms, space, fixtures, apparatus, installations and facilities for power, light, gas, telephone, television, hot water, cold water, heating, incineration, or similar utility service or maintenance purposes, provided they do not exist solely to serve a Unit, including furnaces, tanks, pumps, motors, fans, compressors, vents, ducts, flues, wires, pipes, conduits and other similar fixtures, apparatus, installations and facilities.

(e) All rooms or premises for lodging or housing of managers, custodians or persons in charge of or employed to handle, operate and maintain the Property, except for any Unit owned by the Association.

(f) Parking lots, sidewalks and access roads.

(g) All improvements other than the Units, as defined, are a part of the General Common Elements, except as is otherwise provided in this Declaration.

(h) The community building, the storage spaces and all improvements other than the Units, as defined, are a part of the General Common Elements, except as is otherwise provided in this Declaration.

1.11 "Limited Common Elements" means those parts of the General Common Elements which are either limited to and reserved for the exclusive use of an Owner of a Condominium Unit or are limited to and reserved for the common use of more than one but fewer than all of the Owners, as further described in Section 2.3.

1.12 "Mortgagee" means any person or entity who is a mortgagee under a mortgage or a beneficiary under a deed of trust or similar security instrument encumbering a Condominium Unit. "First Mortgagee" means the mortgagee or beneficiary under a deed of trust which is the first and most senior of all mortgages and deeds of trust encumbering a Condominium Unit.

1.13 "Owner" means a person(s), firm, corporation, partnership, association or other legal entity, or any combination thereof, who is the Owner of a Condominium Unit.

1.14 "Property" means the Real Property and all improvements on the Real Property.

1.15 "Real Property" means the real Property located in the County of Santa Fe, New Mexico, described in Exhibit I attached hereto.

1.16 "Rules and Regulations" means the rules adopted by the Board pursuant to Section 5.6.

1.17 "Unit" means one individual air space which is contained within the perimeter walls, floors, ceilings, windows and doors of each Unit, together with all fixtures and improvements therein contained, but not including any of the structural components of the Building, if any, located within the Unit.

## ARTICLE 2

### CONDOMINIUM UNITS

2.1 Division into Units. The improvements are divided into ninety-eight (98) separate fee simple condominium estates (Units), each such estate having an appurtenant undivided percentage fee simple interest in and to the real Property as is set forth in Exhibit 3. Each such estate shall consist of the separately designated Unit and the appurtenant undivided interest in and to the General Common Elements as set forth in Exhibit 3.

2.2 Limited Common Elements. Portions of the General Common Elements are reserved for the exclusive use of the individual Owners of the respective Units, and such elements are referred to as Limited Common Elements. The Limited Common Elements shall include, but are not limited to, all exterior doors, windows, skylights, HVAC or similar units, chimneys or other fixtures designed to serve a single Unit, but located outside the Unit's boundaries. Furthermore, any porches, balconies or patios designed to serve a single Unit, but located outside the Unit's boundaries, are Limited Common Elements allocated exclusively to that Unit. Additionally, all utility lines serving only one Unit located partially inside and partially outside of the Unit are Limited Common Elements allocated exclusively to the Unit.

Any court, patio, porch, balcony or deck which is accessible from, associated with and which adjoins a Unit and any other Limited Common Elements shall without further reference thereto, be used in connection with such Unit to the exclusion of the use thereof by the other Owners of the General Common Elements, except by invitation. All of the Owners of the Condominium Units in this condominium Property shall have a non-exclusive right in common with all of the other Owners to the use of sidewalks, pathways, driveways, and parking lots located within the entire condominium Property. No reference thereto, whether such Limited Common Elements are exclusive or non-exclusive, need be made in any lease, assignment of lease, sublease, deed, deed of trust, mortgage or other instrument.

2.3 Inseparability of a Condominium Unit. Each Unit, the appurtenant undivided interest in the General Common Elements and any appurtenant Limited Common Elements shall together comprise one Condominium Unit, shall be inseparable and may be conveyed, leased, demised, transferred, assigned, subleased or encumbered only as a Condominium Unit.

2.4 Non-Partitionability of General Common Elements. The General Common Elements shall be owned in common and shall remain undivided; and no right of action for partition or division of the General Common Elements shall or does exist.

2.5 Easements for Encroachments. If any part of the General Common Elements encroaches or shall hereafter encroach upon a Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the General Common Elements, or upon another Unit, the Owner of that Unit shall and does have an easement for such encroachment and for the maintenance of the same. Such encroachments shall not be considered to be encumbrances either on the general common elements or a Unit. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of a Building, by error in the Condominium Plan, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Property or any part thereof.

2.6 Separate Taxation of Condominium Units. All taxes, assessments and other charges of the State of New Mexico or of any political subdivision or of any special improvement district or of any other taxing or assessing authority shall be assessed against and collected on each Condominium Unit separately and not on a Building or the Property as a whole, and each Condominium Unit shall be carried on the tax records as a separate and distinct parcel. For the purpose of valuation for assessment, the valuation of the General Common Elements shall be apportioned among the Condominium Units in proportion to the fractional, or percentage undivided interests in the General Common Elements, including the real Property appurtenant to and part of such Condominium Units. The lien for taxes assessed to any Condominium Unit shall be confined to that Condominium Unit. No forfeiture or sale of any Condominium Unit for delinquent taxes, assessments or other governmental charges shall divest or in any way affect the title to any other Condominium Unit.

### ARTICLE 3



## RIGHTS, EASEMENTS AND OBLIGATIONS

3.1 Owner's Rights in General Common Elements. Subject to the other provisions of the Declaration, each Owner shall have a non-exclusive right to use and enjoy the General Common Elements, consistent with the rights of use and enjoyment of other Owners.

3.2 Owner's Rights in Limited Common Elements. Subject to the other provisions of the Declaration, each Owner shall have an exclusive right to use and enjoy the Limited Common Elements designated herein as appurtenant to the Condominium Unit owned by such Owner.

3.3 Owner's Rights in Unit. Subject to the other provisions of this Declaration, each Owner shall have full and complete dominion of his Unit, and each Owner shall have the exclusive right to use and enjoy the same.

3.4 Owner's Maintenance Responsibilities.

3.4.1 For maintenance purposes, an Owner shall be obligated to keep in good repair and condition the non-supporting walls within Owner's Unit, the materials such as, but not limited to, plaster, gypsum dry-wall, paneling, wallpaper, paint, wall and floor tile and flooring, but not including the sub-flooring, which make up the finished surfaces of the perimeter and interior walls, ceilings and floors within Owner's Unit, including Unit doors and windows (whether located inside or outside of the Unit). Interior doors between two Units shall be the joint responsibility of the Owners thereof. The lines, pipes, wires, conduits or systems (herein referred to as utilities) running through his Unit which serve one or more other Units are General Common Elements. Such utilities shall not be disturbed or relocated by an Owner without the written consent and approval of the Board of Directors. An Owner's right to repair, alter and remodel the interior of Owner's Unit shall be coupled with the obligation to replace any finishing or other materials removed with similar or other types or kinds of materials of at least the same quality.

3.4.2 An Owner shall maintain and keep in repair the interior of Owner's own Unit, including the fixtures thereof. All fixtures, equipment, and utilities installed within the Unit commencing at a point where the utilities enter the Unit shall be maintained and kept in good repair and condition by the Owner thereof. An Owner shall do no act or any work that will impair the structural soundness or integrity of the Unit or the Building in which it is located or impair any easement or hereditament. Furthermore, each Owner shall perform promptly, at Owner's expense, all maintenance and repair within the Owner's Unit which, if omitted, would affect the appearance of, or the aesthetic or structural integrity of, part or all of the Property.

3.4.3 An Owner shall always keep the Limited Common Elements appurtenant to Owner's Unit in a clean and sanitary condition. In addition, each Owner shall maintain in their entirety the following Limited Common Elements related to the Unit: all exterior doors, windows, skylights, HVAC or similar units and utility lines and connections related thereto, chimneys, or other fixtures designed to serve only the Unit, but located outside the Unit's boundaries. Furthermore, each Owner shall maintain all portions of the following Limited Common Elements except for the structural portions of these Limited Common Elements and the

routine exterior painting: court, patio, porch, balcony or deck designed to serve a single Unit, but located outside the Unit's boundaries. Structural portions of these Limited Common Elements include exterior walls, concrete slabs, roofs, supporting structures, and gutters and downspouts, but do not include floors or balcony railings. The Association shall be responsible for maintaining all utility lines (other than lines relating to the HVAC or similar units) up to the point where the lines enter the Unit.

3.4.4 An Owner must promptly, at its own expense, maintain and repair any element of its Unit or any general or Limited Common Element(s) which was damaged or requires maintenance as a result of Owner's installation of an element to Owner's Unit. As an example, maintenance of an Owner-installed skylight and repair of a roof leak due to such installation will be the responsibility of Owner. The responsibility for such repairs and maintenance will be enforceable against the Owner, its heirs and assigns. It is the responsibility of the Owner to notify its heirs and assigns of the possibility of such repair and maintenance due to the action of the Owner.

3.4.5 Additionally, if any Unit is damaged because of the negligent or tortious act of an Owner, members of Owner's family, Owner's agents, employees, invitees, licensees or tenants, the Unit Owner shall be responsible and liable for all of such damage. All damaged improvements shall be restored substantially to the same condition in which they existed prior to the damage.

3.5 Association Rights. The Association shall have a non-exclusive right and easement to make such use of General Common Elements, Limited Common Elements and Units as may be necessary or appropriate for the performance of the duties and functions which it is obligated or permitted to perform under this Declaration.

3.6 Owner's Easement for Access, Support and Utilities. Each Owner shall have a non-exclusive easement for access between his Unit and public roads and streets, over halls, corridors, stairs, walks, if any, and exterior access and other easements which are part of the General Common Elements. Each Owner shall have a non-exclusive easement in and over General Common Elements, including those that are within the Unit of another Owner, for horizontal and lateral support of the Unit which is part of his Condominium Unit for utility service to that Unit, including water, sewer, gas, electricity, telephone and television service.

3.7 Easements in Units for Repair, Maintenance and Emergencies.

3.7.1 Some of the General Common Elements may be located within a Unit or may be conveniently accessible only through a Unit. The Association and each Owner shall have an easement, which may be exercised for any Owner by the Association as Owner's agent, for access through each Unit and to all General Common Elements from time to time during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the General Common Elements located therein or accessible there from; provided, however, that such easement and right of access shall be immediate for making emergency repairs therein necessary to prevent damage to the General Common Elements or to another Unit.

3.8 Partition of a Condominium Unit Prohibited. Subject to the following provisions, no Owner shall partition or subdivide any Condominium Unit so as to convey to a prospective Owner an interest in less than an entire Condominium Unit; provided, however, that an Owner of a Condominium Unit consisting of two Condominium Units combined may partition and subdivide such Condominium Unit into two separate Condominium Units subject to written approval of the Board of Directors. This provision is not intended, however, to prohibit joint or common Ownership by two or more persons or entities of a Condominium Unit.

3.9 Easements Deemed Appurtenant. The easements and rights herein created for an Owner shall be appurtenant to the Condominium Unit of that Owner and any transfer, assignment, sublease, mortgage or deed of trust and other instruments affecting the title to a Condominium Unit shall be deemed to grant and reserve the easements and rights as are provided for herein, even though no specific reference to such easements appears in any such instrument.

## ARTICLE 4

### THE ASSOCIATION

4.1 General Purposes and Powers. Fort Marcy Compound Condominium Association has been formed and incorporated as a New Mexico not-for-profit corporation to be and constitute the Association to which reference is made in this Declaration, to perform functions and hold and manage the General Common Elements as provided in this Declaration and to further the interests of Owners of Condominium Units in the Property. It shall have all powers necessary or desirable to effectuate such purposes. As set forth in Article IV, Section 2(l) of the Bylaws, the Association may borrow funds to fulfill its rights and obligations under the Declaration and Bylaws and, in furtherance thereof, may assign its right to future income, including the right to receive common expense assessments.

4.2 Regular Membership. There shall be one membership in the Association for each Condominium Unit, which membership shall be appurtenant to each Condominium Unit. The Owner of a Condominium Unit shall automatically be the Owner of the membership appurtenant to that Condominium Unit, and title to and Ownership of the membership for that Condominium Unit shall automatically pass with each transfer of a Condominium Unit. Each Owner of a Condominium Unit shall automatically be entitled to the benefits of and subject to the burdens relating to the membership for Owner's Condominium Unit. If the interest in a Condominium Unit is held by more than one person or entity, the membership appurtenant to that Condominium Unit shall be shared by all such persons or entities in the same proportionate interest and by the same type of Ownership as the interest to the Condominium Unit is held.

4.3 Board of Directors. The affairs of the Association shall be managed by the Board of Directors, as further set forth in the Bylaws. The Board may, by resolution, delegate, consistent with New Mexico law, any portion of its authority to an executive committee, to an executive manager, director, or managing agent for the Association.

4.4 Voting of Owners. Each Owner shall be entitled to cast votes based on the appurtenant percentage undivided interest in the General Common Elements assigned to Owner's Unit. Voting by proxy shall be permitted.

4.5 Articles of Incorporation and Bylaws. The purposes and powers of the Association and the rights and obligations with respect to Owners or memberships set forth in this Declaration may and shall be amplified by provisions of the Articles of Incorporation and Bylaws of the Association, including any reasonable provisions with respect to corporate matters, but no such provisions shall be, at any time, inconsistent with any provision of this Declaration. Matters related to Notice, Record Dates, and Quorums are addressed in the Bylaws.

## ARTICLE 5

### RIGHTS AND OBLIGATIONS OF THE ASSOCIATION AND PROHIBITIONS

5.1 Association as Attorney-in-Fact for Owners. The Association is hereby irrevocably appointed attorney-in-fact for the Owners of all Condominium Units and each of them to manage, control and deal with the interest of such Owner so as to permit the Association to fulfill all of its duties and obligations hereunder and to exercise all of its rights hereunder, to deal with the Property upon its destruction as hereinafter provided, and to deal with and handle insurance and insurance proceeds as hereinafter provided and as provided in the Board's Rules and Regulations Governing Insurance. The acceptance by any person or entity of any interest in any Condominium Unit shall constitute an appointment of the Association as an attorney-in-fact as provided above.

5.2 General Common Element Maintenance. The Association shall provide for the care, operation, management, maintenance, repair and replacement of the General Common Elements. Without limiting the generality of the foregoing, said obligations shall include the keeping of such General Common Elements in good, clean, attractive and sanitary condition, order and repair; removing snow and any other materials from such General Common Elements which might impair access to the Property or to the Units; keeping the Property safe, attractive and desirable; and making necessary or desirable alterations, additions, betterments or improvements to or on the General Common Elements.

5.3 Other Association Functions. The Association may undertake any activity, function or service for the benefit or to further the interests of all, some or any Owners of Condominium Units on a self-supporting, special assessment or common assessment basis. Such activities, functions or services may include the providing on its own or to contract with third persons for police or similar security services, garbage and trash collection services, maid and cleaning service for individual Condominium Units, check-in, mail and telephone answering service, and gas and electrical service, water, sewage disposal and other common services.

5.4 Labor and Services. The Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Property, whether such personnel are furnished or employed directly by

the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Property or the enforcement of this Declaration.

5.5 Association Right to Acquire Property. The Association may acquire and hold, for use and benefit of the Owners, real, tangible and intangible personal Property and may dispose of the same by sale or otherwise. Upon a termination of condominium ownership of the Property and dissolution of the Association, the beneficial interest in the Property shall be deemed to be owned by the then Owners in the same proportion as their respective interests in the General Common Elements. An assignment of a Condominium Unit shall transfer to the assignee ownership of the assignor's beneficial interest in the Property without the necessity of any specific reference thereto. The transfer of a Condominium Unit under foreclosure shall entitle the purchaser to the beneficial interest in the Property. Specifically included herein is the right to obtain necessary easements for the construction, maintenance and operation by the Association of a water or other utility system.

5.6 Rules and Regulations. The Association may make, enforce, and amend reasonable and uniformly applied rules and regulations governing the use of Units and of the General Common Elements, and as may be necessary for the operation, use and occupancy of the Property. Such rules and regulations may without limitation: (i) regulate use of the General and Limited Common Elements to assure equitable use and enjoyment by all persons entitled thereto; (ii) require that draperies, shades or other window coverings shall present a uniform and attractive appearance from the exterior of a Building; (iii) regulate what types of animals, if any, may be allowed within the Units or on the Common Elements, and, if any animals are allowed, regulate requirements for such animals; (iv) assign particular portions of parking areas (spaces) or storage areas or other facilities within the General Common Elements for exclusive use by Owners of particular Condominium Units; and (v) regulate insurance coverage required by the Association and the Owners.

5.7 Suspension of Voting Rights. The Association may suspend any Owner's voting rights in the Association during any period or periods during which such Owner fails to comply with such Rules and Regulations, or with any other obligations of such Owner under this Declaration. The Association may also take judicial action against any Owner to enforce compliance with such rules, regulations or other obligations or to obtain damages for noncompliance, all to the extent permitted by law.

5.8 Implied Rights. The Association shall have and may exercise any right or privilege given to it expressly by this Declaration, or reasonably to be implied from the provisions of this Declaration, or given or implied by law, or which may be necessary or desirable to fulfill its duties, obligations, rights or privileges. Furthermore, the exercise of any one or more of its remedies shall not prevent the Association from exercising any other legal rights or remedies available to it.

5.9 Rights of Mortgagee. Nothing contained in this Article 5 shall preclude or in any manner limit the right of a Mortgagee of a Condominium Unit from making the repairs or

improvements in accordance with the applicable provisions of the Condominium Declaration or its mortgage.

## ARTICLE 6

### ASSESSMENTS

6.1 Regular Assessments. Each Owner shall be obligated to pay and shall pay to the Association amounts assessed to the Condominium Unit of such Owner, which amounts are herein called assessments for payment of Common Expenses. The apportionment of assessments shall be made as provided in Article 6.3. Subject to the provisions hereof, the Board of Directors shall have the power and authority to determine all matters in connection with assessments, including power and authority to determine where, when and how assessments should be paid to the Association, and each Owner shall be required to comply with any such determinations.

6.2 Special Assessments for Capital Improvements. In addition to the regular assessments, the Association may levy special assessments, payable over such a period as the Association may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of the Property or any part thereof, or for any other expense incurred or to be incurred as provided in this Declaration.

6.3 Apportionment of Assessments. Except as otherwise set forth herein or by law, assessments shall be apportioned according to the appurtenant percentage undivided interest in the general common elements assigned to a Unit. If so directed by the Board, any Common Expense or portion thereof benefiting fewer than all of the Units shall be assessed exclusively against the Units benefited. Furthermore, if any Common Expense is caused by the negligent or tortious act of any Unit Owner, members of Owner's family, Owner's agents, employees, invitees, licensees or tenants, the Association may assess that expense exclusively against his Unit.

6.4 Determination of Budgets and Assessments.

6.4.1 Except for assessments to be apportioned to only certain Units pursuant to Section 6.4.4, the total amount required to be raised by assessments shall be determined for each fiscal year of the Association by the Board of Directors, subject to the budget ratification requirements of the Condominium Act. To determine the total amount required to be raised, the Board of Directors shall prepare an annual budget for the fiscal year showing, in reasonable detail, the various matters proposed to be covered by the budget, the estimated costs and expenses which will be payable, any estimated income and other funds which will be received, and the estimated total amount required to be raised by assessments to cover costs and expenses and to provide a reasonable reserve (for contingencies and for future maintenance, repair, improvement, and replacement). The Board of Directors shall furnish a summary of the budget to all Owners.

6.4.2 The total amount required to be raised by assessments for any fiscal year shall be that amount necessary to cover the costs and expenses of fulfilling the obligations of the

Association made in connection with or contemplated under any previously approved budget. The total amount required to be raised by assessments for any fiscal period less than a full fiscal year shall be the total amount required to be raised for the fiscal year determined as above and multiplied by a fraction, the numerator of which is the number of days in the fiscal period and the denominator of which is the number of days in that fiscal year. Any deficit, occurring or anticipated may, at the option of the Board of Directors, be the subject of a special assessment.

6.4.3 Except as emergencies may require, the Association shall make no commitment or expenditure in excess of the funds reasonably expected to be available to the Association.

6.4.4 If the Board determines that it needs to assess a Common Expense exclusively against the Units benefited, or that a Common Expense is caused by the negligent or tortious Act of any Unit Owner, members of Owner's family, Owner's agents, employees, invitees, licensees or tenants, (as described in Section 6.3), the Board shall determine the amount of the Common Expense to be assessed, and shall inform the affected Unit Owners of the assessment, along with its due date.

6.5 Time for Payments. The amount of any assessment, or other amount payable with respect to any Owner, shall become due and payable by the Owner twenty (20) days after notice of such amount shall have been given by the Association to such Owner, or at such later time as may be specified by the Association. Any such overdue amount shall be subject to a late charge of not more than \$100.00 per month, and shall bear interest at the rate set by the Board, but shall not to exceed twelve percent (12%) per annum from the date due and payable.

6.6 Lien for Assessments and Other Amounts. The Association shall have a lien against each Condominium Unit to secure payment of any assessment or other amount due and owing to the Association with respect to the Owner of that Condominium Unit. Recording of the original Declaration, as amended by all subsequent amendments, constitutes record notice and perfection of the lien. No further recordation of the claim of lien for assessment is required for perfection of the lien.

6.6.1 Such lien may be enforced by the foreclosure of the defaulting Owner's Condominium Unit by the Association in like manner as a mortgage on real Property. In any such proceedings, the Owner shall be required to pay the costs, expenses and attorney's fees incurred for filing the lien, all additional costs, all expenses and reasonable attorney's fee's incurred.

6.6.2 The Owner of the Condominium Unit being foreclosed shall be required to pay to the Association the monthly common assessment for the Condominium Unit during the period of foreclosure, and the Association shall be entitled to a receiver during foreclosure. The Association shall have the power to bid on the Condominium Unit at foreclosure or other legal sale and to acquire and hold, lease, mortgage, vote the votes appurtenant thereto, assign the leasehold or otherwise deal with the same.

6.7 Liability of Owners and Encumbrances.

66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100

6.7.1 The amount of any assessment payable with respect to any Owner shall be a joint and several obligation to the Association of such Owner and such Owner's heirs, personal representatives, successors and assigns. A party acquiring an interest in the Condominium Unit or an interest as a lessee shall be jointly and severally liable with the former Owner or lessor for all such amounts which had accrued and were payable at the time of the acquisition of such interest by such party without prejudice to such party's right to recover any of said amounts paid from the former Owner. Each such amount, together with interest thereon, may be recovered by suit for a money judgment by the Association without foreclosing or waiving any lien securing the same.

6.7.2 The holder of a first mortgage or first deed of trust on a Condominium Unit taken in good faith and for value and recorded in the office of the County Clerk shall not be liable for any such assessment, charge, fine or penalty that becomes due by their mortgagee after the recording of their first mortgage or first deed of trust. However, if said Mortgagee becomes the Owner of the Unit, the Mortgagee shall thereafter be responsible for all assessments charges, fines or penalties from the date of acquiring ownership for so long as the First Mortgagee owns the Unit. Upon request of the Mortgagee, the Association shall report to the Mortgagee of a Condominium Unit any unpaid common assessment or other charges remaining unpaid for longer than thirty (30) days after the same is due; provided, however, that a Mortgagee shall have furnished to the Association written notice of such encumbrance.

6.8 Estoppel Certificate. Upon payment of a reasonable fee, and upon written request of any Owner, the Association shall furnish a written statement setting forth the amount of any assessments, charges, fines or penalties, if any, due or accrued and then unpaid with respect to the Owner of the Condominium Unit and the amount of the assessments for the current fiscal period of the Association payable with respect to the Condominium Unit, which statement shall, with respect to the party to whom it is issued, be conclusive against the Association and all parties, for all purposes, that no greater or other amounts were then due or accrued and unpaid.

6.9 General. The omission or failure to fix the assessment or deliver or mail a statement for any period shall not be deemed a waiver, modification or a release of the Owner from Owner's obligation to pay the Common Expenses.



## ARTICLE 7

### USE AND OTHER RESTRICTIONS

7.1 Restrictions on Use. All Units shall be used for residential purposes only, and no Unit shall be occupied for living or sleeping purposes by more persons than it was designed to accommodate safely. No Unit shall be used at any time for any business or commercial activity, except that the Owner thereof may lease or rent such Unit for private residential, living or sleeping purposes.

7.2 Common Elements Restrictions. All use and occupancy of general common elements shall be subject to and governed by rules and regulations of the Association. No Owner and no Owner's renters or guest shall obstruct, damage or commit waste to any of the General Common Elements. No Owner and no Owner's renters or guests shall change, alter or repair or store anything in or on any of the Limited or General Common Elements without the prior written consent of the Association.

7.3 No Imperiling of Insurance. No Owner and no Owner's renters or guests shall do anything or cause anything to be kept in or on the Property which might result in an increase in the insurance premiums of insurance obtained for the Property or which might cause cancellation of such insurance without the prior written consent of the Association.

7.4 No Violation of Law. No Owner and no Owner's renters or guests shall do anything in or on the Property which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.

7.5 No Noxious, Offensive, Hazardous or Annoying Activities. No noxious or offensive activity shall be carried on upon any part of the Property nor shall anything be done or placed on or in any part of the Property which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others. No activity shall be conducted on any part of the Property and no improvements shall be made or constructed on, any part of the Property which are or might be unsafe or hazardous to any person or Property. No sound shall be emitted on any part of the Property which is unreasonably loud or annoying. No odor shall be emitted on any part of the Property which is noxious or offensive to others. No light shall be emitted from any part of the Property which is unreasonably bright or causes unreasonable glare. Determinations with respect to whether or not a particular activity or occurrence shall constitute a violation of this Article 7.5 shall be made by the Board of Directors, or its designated agent and determination by the Board shall be final.

7.6 No Unsightliness. No unsightliness shall be permitted on or in any part of the Property. Without limiting the generality of the foregoing, nothing shall be kept or stored on or in any of the General Common Elements, nothing shall be hung or placed upon any of the general or Limited Common Elements, and nothing shall be placed on or in windows or doors of Units which would or might create an unsightly appearance. Determinations with respect to

whether or not a particular activity or occurrence is unsightly shall be made by the Board of Directors and shall be final.

7.7 Restriction on Animals. No animals, including but not limited to mammals, birds, reptiles or insects, shall be kept on any part of the Property by Owners, renters, or guests except as provided for in the Bylaws and Rules and Regulations of the Association.

7.8 Restriction on Signs. No signs or advertising devices of any nature shall be erected or maintained on any part of the Property without the prior written consent of the Board of Directors. The Board of Directors shall permit the placing of signs of reasonable size and dignified form to identify the Property.

7.9 Maintenance of Condominium Unit. Each Condominium Unit and its improvements, fixtures and furniture and equipment therein shall be kept and maintained by the Owner thereof, in a clean, safe, attractive and sightly condition and in good repair. No structural alterations within any Condominium Unit shall be made and no electrical, plumbing or similar work within any Condominium Unit shall be done without the prior, written consent of the Association. Determinations with respect to whether or not a particular activity or occurrence shall constitute a violation of this Article 7.9 shall be made by the Board of Directors and such determinations shall be final.

7.10 No Violation of Rules. No Owner and no Owner's renters or guests shall violate the rules and regulations adopted from time to time by the Association, whether relating to the use of Condominium Units, the use of General or Limited Common Elements or otherwise. Determinations with respect to whether or not a particular activity or occurrence shall constitute a violation of this Article 7.10 shall be made by the Board of Directors and shall be final.

7.11 Owner Caused Damage. If, due to the act or neglect of an Owner or such Owner's renters or guests, loss or damage shall be caused to any person or property, including, but not limited to, the Property or any Unit therein, such Owner shall be liable and responsible for the same except to the extent that such damage or loss is covered by insurance obtained by the Association and the carrier of the insurance has waived its rights of subrogation against such Owner. The amount of such loss or damage may be collected by the Association from such Owner as a special assessment against such Owner by legal proceedings or otherwise and such amount shall be secured by a lien on the Condominium Unit of such Owner as provided in Article 6 of this Declaration for assessments or other charges.

## ARTICLE 8

### INSURANCE

8.1 Insurance Requirements Generally. The Association shall obtain and maintain in full force and effect at all times casualty, liability and other insurance as provided by law and/or in the Board's Rules and Regulations Governing Insurance. All such insurance shall be obtained from companies duly authorized to do business in the State of New Mexico. All such insurance,

to the extent possible, shall name the Association as the insured, in its individual capacity and also either as attorney-in-fact or trustee for all Owners. Certificates of insurance coverage shall be issued to each Owner or each Mortgagee upon request. The insurance policy shall also be made available to Owners for inspection and/or copying.

8.2 Workmen's Compensation and Employer's Liability Insurance. The Association shall obtain and maintain Workmen's Compensation and employer's liability insurance as may be necessary to comply with applicable laws.

8.3 Insurance by Owners. Each Owner shall obtain insurance, including insurance covering the Owner's furnishings and personal property, and any portions of the Unit (or improvements or betterments thereto) that are not covered by the Association's insurance policy, insurance covering the Owner's personal liability and the liability of the Owner's employees, agents, renters and guests, and any other insurance required by law and/or the Board's Rules and Regulations Governing Insurance. Each Owner's insurance policy shall include insurance to cover the insurance deductible for the Association's property insurance policy, as well as loss assessment coverage (to cover the cost of any special assessment by the Association to make repairs not covered by the Association's insurance policy). Any insurance policy obtained by an Owner shall be such that it will not diminish or adversely affect or invalidate any insurance or insurance recovery under policies carried by the Association and shall, to the extent possible, contain a waiver of the rights of subrogation by the insurer as to any claim against the Association, its officers, directors, agents and employees and against other Owners and their employees, agents, renters or guests.

8.4 Receipt and Application of Insurance Proceeds. All insurance proceeds from insurance policies obtained by the Association shall be paid to and received by the Association. All insurance proceeds or recoveries received by the Association shall be applied by the Association as provided in Article 9.

## ARTICLE 9

### DAMAGE, DESTRUCTION AND RESTORATION

9.1 Association Attorney-in-Fact. In accordance with the Condominium Act, any loss covered by the Association's insurance policy must be adjusted with the Association, with the insurance proceeds payable to the Association (or to any insurance trustee appointed by the Association for that purpose). The Association is hereby irrevocably appointed as the attorney-in-fact, to deal with the Property upon its destruction or damage, to repair and improve the Property. Owners irrevocably constitute and appoint the Association their true and lawful attorney in their name, place and stead for the purpose of dealing with the Property upon its damage or destruction as is hereinafter provided. As attorney-in-fact, the Association, by its Board, its President and Secretary or Assistant Secretary or its other duly authorized officers or agents, shall have full and complete authorization, right and power to make, execute and deliver any contract, assignment or any other instrument with respect to the interest of any Owner which are necessary and appropriate to exercise the powers herein granted. Repair and reconstruction of the Property as used in the succeeding subsections means restoring the Property to substantially

the same condition in which it existed prior to the damage. The insurance proceeds collected shall be available to the Association for the purpose of repair, restoration, reconstruction and replacement unless the Owner agrees not to rebuild in accordance with the provisions set forth hereinafter.

9.2 Restoration of the Property. Any portion of the Property insured by the Association which is damaged or destroyed shall be repaired or replaced promptly by the Association unless the condominium is terminated, repair or replacement would be illegal under any state or local health or safety statute or ordinance or eighty percent of the Unit Owners, including every Owner of a Unit or assigned Limited Common Element which will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. Said Common Expense shall be assessed as set forth in Section 6.3. Additionally, assessments for Common Expenses shall not be abated during the period of insurance adjustments and repair and reconstruction. If the Unit Owners vote not to repair or replace, the Association shall follow the provisions of Section 47-7C-13 of the Condominium Act, as may be amended from time-to-time.

## ARTICLE 10

### MISCELLANEOUS

10.1 Duration of Declaration. Each provision contained in this Declaration shall continue and remain in full force and effect until this Declaration is terminated or amended as hereinafter provided, whichever first occurs. All other provisions contained in this Declaration shall continue and remain in full force and effect until condominium ownership of the Property and this Declaration is terminated or revoked as hereinafter provided.

10.2 Revocation or Amendment. Except as otherwise provided, this Declaration shall not be revoked unless eighty percent (80%) of the Owners, of the Condominium Units in the Property consent and agree to such revocation by instrument(s) duly recorded. This Declaration may be amended only by vote or agreement of Unit Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated. provided, however, that the undivided interests in the General Common Elements appurtenant to each Unit shall have a permanent character and shall not be altered without the consent of all the Owners. Any amendment is effective only upon recordation with the County Clerk.

10.3 Registration of Mailing Address. Each Owner shall register his mailing address with the Association, on such form as required by the Association, and notices or demands intended to be served upon an Owner shall be sent by mail, postage prepaid, addressed in the name of the Owner at such registered address. Alternatively, if an Owner provides his or her e-mail address and provides the Association with the option of providing notice via electronic mail, the Association may provide notice via electronic mail, to the extent allowed by law.

10.4 Effect of Provisions of Declaration. Each provision of this Declaration, and an agreement, promise, covenant and undertaking to comply with each provision of this

Declaration, and any necessary exception or reservation or grant of leasehold, estate, right or interest to effectuate any provision of this Declaration shall:

10.4.1 Be deemed incorporated in each deed, assignment or other instrument by which any right, title or interest in the Property or in any Condominium Unit is created, whether or not set forth or referred to in such instrument.

10.4.2 By virtue of acceptance of any right, title or interest in the Property or in any Condominium Unit by an Owner, be deemed accepted, ratified, adopted and declared as a personal covenant of such Owner, and, as a personal covenant, shall be binding on such Owner and such Owner's heirs, personal representatives, successors, and assigns, and shall be deemed a personal covenant to, with and for the benefit of the Association but not to, with or for the benefit of any other Owner.

10.4.3 Be deemed a real covenant for itself, its successors and assigns, and also an equitable servitude, running in each case, as a burden with and upon the title to the Property and each Condominium Unit and, as a real covenant and also as an equitable servitude, shall be deemed a covenant and servitude for the benefit of the Property and each Condominium Unit.

10.4.4 Be deemed a covenant, obligation and restriction secured by a lien in favor of the Association, burdening and encumbering the title to the Property and each Condominium Unit in favor of the Association.

10.5 Enforcement and Remedies. Each provision of this Declaration with respect to an Owner or the Condominium Unit of such Owner shall be enforceable by the Association by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages, or, in the discretion of the Association, for so long as any Owner fails to comply with any such provisions, by exclusion of such Owner and such Owner's renters or guests from use of any General Common Elements, or the imposition of fines. The exercise of the Association of one or more of its remedies shall not prevent the Association from exercising any other remedies available to it. If court proceedings are instituted in connection with the rights of enforcement and remedies provided in this Declaration, the prevailing party shall be entitled to recover its costs and expenses in connection therewith, including reasonable attorney's fees.

10.6 Priorities of Association Lien for Common Expenses. The Owner of a Condominium Unit may create a junior mortgage (junior to the lien, deed of trust or other encumbrance of a First Mortgagee), liens or encumbrances on his interest in a Condominium Unit; provided, however, that any such junior mortgages, liens or encumbrances shall be subordinate to any lien of the Association for Common Expenses and all of the terms, conditions, covenants, restrictions, uses, limitations and obligations under this Declaration, Association Articles of Incorporation and Bylaws and provided, further, that such junior encumbrancer(s) shall release, for purposes of restoration of any improvements upon the encumbered Condominium Unit, all of Owner's right, title and interest in and to the proceeds under all insurance policies upon said premises by the Association. Such release shall be furnished forthwith by a junior Mortgagee upon written request of the Association, and if such request is

not granted, such release may be executed by the Association as attorney-in-fact for such junior Mortgagee.

10.7 Limited Liability; Indemnification. Neither the Association, the Board of Directors, nor any officer, agent or employee of any of the same shall be liable to the Association or any other Owner for any action or for any failure to act with respect to any matter so long as such person or entity was not guilty of willful misconduct or recklessness in taking such action or failing to act.

10.7.1 The Association shall indemnify each Director and any employee or agent of or the Association against any loss or threat of loss as a result of any claim or legal proceeding relating to the performance or nonperformance of any act concerning the activities of the Association; provided, however, that with respect to the subject matter of the claim or legal proceeding the party against whom the claim is made or legal proceeding is directed was not guilty of willful misconduct or recklessness in such performance or nonperformance.

10.7.2 The indemnification authorized by this Article 10.7 shall include payment of (i) reasonable attorney's fees or other expenses incurred in settling any claim or threatened action or incurred in any finally adjudicated legal proceeding; and (ii) expenses incurred in the removal of any liens affecting any Property of the indemnity.

10.7.3 This Article 10.7 shall inure to the benefit of the Association, the Directors, the employees and agents of the Association and the Association, and their respective heirs, personal representatives, successors and assigns.

10.8 Reservations.

10.8.1 The Association reserves to the Association the right to establish utility, easements and other easements consistent with the condominium use of the Property.

10.8.2 The Association reserves the right to dedicate any access roads serving this Property for and to public use; to establish easements, reservations, exceptions and exclusions consistent with the condominium ownership of the Property and for the best interests of the Unit Owners and the Association.

10.9 General.

10.9.1 This Declaration shall be binding and shall inure to the benefit of the Association and each Owner, and the heirs, personal representatives, successors and assigns of each of them.

10.9.2 Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid and enforceable part of a provision of this Declaration.

10.9.3 The captions and headings in this instrument are for convenience only and shall not be considered in construing any provision of this Declaration.

10.9.4 Failure to enforce any provisions of this Declaration shall not operate as a waiver of any such provision or of any other provision of this Declaration.

10.9.5 The provisions of this Declaration shall be in addition to and supplemental to the Condominium Act and any amendments thereto.

10.10 Lien holders.

10.10.1 Any holder of a first mortgage or other equivalent lien on any Condominium Unit, whose name and address has been filed with the Association, shall be entitled to:

- (a) Inspect the books and records of the Association during normal business hours;
- (b) Receive, upon written request, a copy of the annual financial statement within a reasonable time after such statement is prepared and accepted by the Association;
- (c) Receive, upon written request, a notice of all meetings of the Association and to designate a representative to attend all such meetings;
- (d) Notice of meetings to be held for the purpose of making any material Amendment in the Declaration, the Bylaws, or the Articles of Incorporation of the Association;
- (e) Notice of the effectuation of any decision by the Association to terminate any professional management contract and assume self-management of the condominium Property.
- (f) Receive, upon request, copies of insurance policies maintained by the Association upon the common elements for fire, extended coverage and liability, copies of any officers' and Directors' liability insurance coverage, and copies of any fidelity bonds on officers or employees. The amount of such coverage shall be deemed adequate by the lender by making a loan on a Unit and such coverages shall not be reduced in amount during the life of such loan without prior consent of the lender.

The President of the Association hereby certifies that the Association has adopted this Third Amended and Restated Condominium Declaration for Fort Marcy Compound Condominium Association in accordance with the requirements of the Declaration.

DATED this 19<sup>th</sup> day of May, 2011.

FORT MARCY COMPOUND CONDOMINIUM ASSOCIATION, a New Mexico nonprofit corporation

By: \_\_\_\_\_  
President

STATE OF TEXAS            )  
  ) ss.  
County of Dallas            )

The foregoing document was acknowledged before me by JUDITH A. SWIFT, President of Fort Marcy Compound Condominium Association, on behalf of that corporation this 19 day of MAY, 2011.

\_\_\_\_\_  
Notary Public

My Commission Expires:

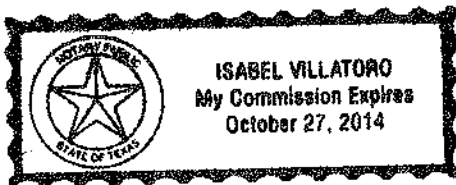




EXHIBIT "1"  
FT. MARCY COMPOUND  
CONDOMINIUM DECLARATION

Beginning at a point on the south side of Hyde Park Road from which a sewer manhole in Hyde Park Road bears N. 57° 24' W., 125.9 feet; thence S. 21° 11' W., 50 feet to a point; thence S. 68° 11' E., 430.1 feet to a point; thence N. 21° 58' E., 25 feet to a point; thence S. 68° 11' E., 6.2 feet to a point on the west side of Prince Avenue; thence along the west side of Prince Avenue S. 10° 56' E., 319.5 feet to a point; thence on a curve to the right on a radius of 25 feet with a cord of S. 24° 12' W., 28.77 feet; thence along the north side of Kearney Street S. 59° 20' W., 255.9 feet; thence S. 79° 51' W., 41.7 feet to a point; thence on a curve to the right with a radius of 176.64 feet on a cord of N. 79° 52' W., a distance of 142.6 feet; thence N. 55° 43' W., 297.0 feet to a point from which the manhole in Kearney Street bears N. 75° 00' W., 164.2 feet; thence continuing along the north side of Kearney Street N. 69° 25' W., 210.8 feet to a point; thence N. 21° 38' E., 216 feet; thence S. 68° 14' E., 50 feet; thence N. 21° 42' E., 175.4 feet to a point; thence S. 68° 18' E., 75 feet to a point; thence N. 21° 49' E., 125 feet to a point; thence S. 67° 41' E., 99.3 feet to the point and place of beginning.

All as more fully appears on that Plat of Survey prepared by Jack G. Horne, N.M.P.E. and L.S. No. 889, dated August 24, 1978, and entitled "Fort Marcy Compound Condominiums Hyde Park Road Santa Fe, New Mexico. 1" = 40" a copy of which was filed for record in Santa Fe County and appears in Book \_\_\_\_ at Page \_\_\_\_ Plats, Records of Santa Fe County, New Mexico.

EXHIBIT "3"  
 FORT MARCY COMPOUND CONDOMINIUMS

Unit No.	Type	Value	Percentage Interest
1	B	\$59,500	1.322
2	C	42,500	.944
3	C	40,000	.888
4	C	42,500	.944
5	C	40,000	.888
6	C	42,500	.944
7	C	40,000	.888
8	B	57,000	1.266
9	B	57,000	1.266
10	E	37,000	.822
11	E	37,000	.822
12	E	37,000	.822
13	A	50,500	1.122
14	A	50,500	1.122
15	A	50,500	1.122
16	A	50,500	1.122
17	D	40,000	.888
18	C	40,000	.888
19	C	40,000	.888
20	D	40,000	.888
21	B	57,000	1.266
22	A	50,000	1.111
23	A	50,000	1.111
24	A	50,000	1.111
25	A	50,000	1.111
26	A	50,000	1.111
27	A	50,000	1.111
28	D	46,000	1.022
29	D	46,000	1.022
30	D	46,000	1.022
31	D	46,000	1.022
32	D	40,000	.888
33	C	40,000	.888
34	C	40,000	.888
35	C	40,000	.888
36	D	40,000	.888
37	B	57,000	1.266
38	A	50,000	1.111
39	A	50,000	1.111
40	A	50,000	1.111

Unit No.	Type	Value	Percentage Interest
41	A	50,000	1.111
42	A	50,000	1.111
43	A	50,000	1.111
44	B	57,000	1.266
45	B	60,000	1.333
46	B	60,000	1.333
47	B	60,000	1.333
48	B	60,000	1.333
49	D	46,000	1.022
50	C	40,000	.888
51	C	45,000	1.000
52	C	40,000	.888
53	C	45,000	1.000
54	D	40,000	.888
55	D	45,000	1.000
56	D	40,000	.888
57	C	40,000	.888
58	C	40,000	.888
59	D	40,000	.888
60	B	57,000	1.266
61	C	42,000	.933
62	Special	69,000	1.533
64	B	55,000	1.222
65	E	35,000	.777
66	E	35,000	.777
67	E	35,000	.777
68	E	35,000	.777
69	E	35,000	.777
70	A	51,500	1.144
71	A	51,500	1.144
72	A	51,500	1.144
73	A	51,500	1.144
74	A	51,500	1.144
75	E	35,000	.777
76	E	35,000	.777
77	E	35,000	.777
78	E	35,000	.777
79	E	35,000	.777
80	E	37,000	.822
81	E	37,000	.822
82	E	37,000	.822
83	E	37,000	.822
84	A	50,500	1.122
85	A	49,000	1.088
86	A	49,000	1.088

Unit No.	Type	Value	Percentage Interest
87	A	49,000	1.088
88	A	49,000	1.088
89	A	49,000	1.088
90	E	36,000	.800
91	E	36,000	.800
92	A	50,500	1.122
93	A	49,000	1.088
94	A	49,000	1.088
95	A	49,000	1.088
96	A	50,500	1.122
97	A	50,500	1.122
98	A	50,500	1.122
99	Special	55,000	1.27

The formula used to calculate the Percentage Interest of each Unit was the value assigned to each Unit divided by the total value of all of the Units.

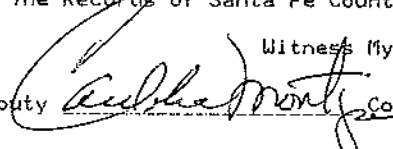
Units identified as Type A or B are two story. Type C, D & E are one story and Units 62 and 99 are one story.



COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss

THIRD AMENDED AND REST  
PAGES: 28

I Hereby Certify That This Instrument Was Filed for  
Record On The 2ND Day Of June, 2011 at 11:44:30 AM  
And Was Duly Recorded as Instrument # 1636448  
Of The Records Of Santa Fe County

Deputy  County Clerk, Santa Fe, NM

Witness My Hand And Seal Of Office  
Valerie Espinoza